REMARKS

This is in response to the Non-Final Office Action. dated November 2. 2004, in which the Examiner has rejected claims 1 and 4-54. By the present amendment, applicants have added new claim 55. After the present amendment, claims 1 and 4-55 are pending in the present application. Reconsideration and allowance of pending claims 1 and 4-55 in view of the following remarks are respectfully requested.

A.   Rejection of Claims 1 and 4-53 under 35 U.S.C. § 103(a)

The Examiner has rejected claims 1 and 4-53 under 35 U.S.C. § 103(a), as being unpatentable over Lumpkin, et al. (USPN 5,943,505) ("Lumpkin") in view of Noyes (USPN 4,656,318) ("Noyes").

To respond to the outstanding rejection by the Examiner, a short history of office actions and responses is in order. In the previous Office Action, in rejecting claims 1 and 4, the Examiner had equated the DMA (Direct Memory Access) commands of Lumpkin to the command information of claims 1 and 4, which are stated to be for controlling telephone line operations of the modem. Applicants respectfully disagreed with the Examiner's interpretation that commands to operate a DMA are the same as modem commands that control the telephone line operations of the modem. To that end, as a result of an interview with the Examiner and to expedite the prosecution of the present application, applicants amended claims 1 and 4 to clarify "commands that control the telephone line operations of the modem" over "DMA commands", by reciting "said command information for controlling telephone line operations of the modem includes a command to call a telephone number or a command to answer an incoming call."

13

97RSS327

In the present Office Action, the Examiner has again acknowledged that DMA commands are different from command information of claims 1 and 4, because the DMA commands. unlike command information of claims 1 and 4, do not include a command to call a telephone number or a command to answer an incoming call. In an attempt to cover this void, the Examiner cites Noyes to the effect that it discloses "intelligent modem" commands.

First, it should be noted that in response to the previous office action. applicants had already clearly stated that ATA and ATD commands were known in the art. Therefore, Noyes does not add anything, and a key point still remains that neither Lumpkin nor Noyes teaches or suggests inclusion of such commands in command information for controlling telephone line operations of the modem.

Second, as acknowledged by the Examiner, Lumpkin teaches DMA commands such as read/write, acknowledgement and interrupt for facilitating data information communication using the DMA. If one were to combine the teachings of Lumpkin and Noyes, ATA and ATD commands for controlling telephone line operations of the modem would be included in the "data information" that is communicated through the DMA and "not in the DMA command information." In other words, ATA and ATD would have to pass through the DMA using "the second logical channel configured to transmit data information", and not through "the first logical channel configured to transmit command information." There is no teaching or suggestion in Lumpkin to divide the data information channel of the DMA into modem data information and modem command information, let alone any such teaching or suggestion by Noyes.

Therefore, in a sharp contrast to a combination of Lumpkin and Noyes, which would teach that modem command information to be routed through the DMA data information to the

14

modem, claims 1 and 4 of the present application recite that the modem command information. such as ATA or ATD, is routed through "the first logical channel configured to transmit command information."

Furthermore, applicants would like to point out that, as stated by the Federal Circuit in **In re Gordon**, 733 F.2d 900, 902 (Fed. Cir. 1984) (see also **In re Fitch**, 972 F.2d 1260 (Fed. Cir. 1992)):

> "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious *unless the prior art suggested the desirability of the modification*" (emphasis added).

Similarly, as stated by the Federal Circuit in **In re Chu**, 66 F.3d 292. 298 (Fed. Cir. 1995):

> In a proper obviousness determination, "whether the changes from the prior art are 'minor', ... the changes must be evaluated in terms of the whole invention, including whether the prior art provides any teaching or suggestion to one of ordinary skill in the art to make the changes that would produce the patentee's ... device." (citations omitted.) This includes what could be characterized as simple changes, as in *In re Gordon, 733 F.2d 900, 902, 221 U.S.P.Q. (BNA) 1125, 1127 (Fed. Cir. 1984)* (Although a prior art device could have been turned upside down, that did not make the modification obvious unless the prior art fairly suggested the desirability of turning the device upside down). (emphasis added.)

It is respectfully submitted that the cited references of record do not suggest the desirability of dividing the data information channel of the DMA into modem data information and modem command information.

Accordingly, independent claims 1, 4, 20, 31 and 42 and their respective dependent claims are distinguishable over the cited references of record, and should be allowed.

97RSS327

B.   Rejection of Claim 54 under 35 U.S.C. § 103(a)

The Examiner has rejected claim 54 under 35 U.S.C. § 103(a), as being unpatentable over Lumpkin in view of Noyes, and further in view of Johnson, et al. (USPN 5,001,703) ("Johnson"). Applicants respectfully submit that claim 54 depends from claim 4 and should be allowed at least for the same reasons stated above in conjunction with patentability of claim 4.

Furthermore, there is no teaching or suggestion by any of the cited references that command information may also be embedded in the data information, in addition to command information being provided through a separate logical channel.   There is no teaching or suggestion in any of the cited references of record to use a logical channel for communicating command information and further monitoring the logical channel for communicating data information for embedded command information, and executing the embedded command information for controlling telephone line operations of the modem.   Accordingly, it is respectfully submitted that claim 54 should be allowed.

C.   New Claim 55

By the present amendment, applicants have added new independent claim 55, which in addition to other limitations, recites "a receive first-in/first-out (FIFO) register for storing said data information; a transmit FIFO register for storing said data information; a mailbox for storing said command information and said message information, wherein each of said command information and said message information includes a type and a channel number." It is respectfully submitted that in addition to the reasons discussed above in conjunction with patentability of claim 1, independent claim 55 is further distinguishable over Lumpkin, because Lumpkin fails to disclose a mailbox for command information and message information in
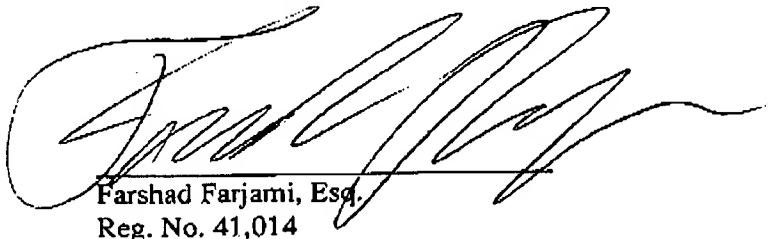
16

addition to receive and transmit FIFOs. For example, Lumpkin does not come close to disclosing, teaching or suggesting a type or a channel number for command information and message information. Accordingly, it is respectfully submitted that claim 55 should be allowed.

D.   Conclusion

For all the foregoing reasons, an early allowance of claims 1 and 4-55 pending in the present application is respectfully requested. The Examiner is invited to contact the undersigned for any questions.

Respectfully Submitted;
FARJAMI & FARJAMI LLP

Farshad Farjami, Esq.
Reg. No. 41,014

Farshad Farjami, Esq.
FARJAMI & FARJAMI LLP
26522 La Alameda Ave., Suite 360
Mission Viejo, California 92691
Tel: (949) 282-1000
Fax: (949) 282-1002

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being filed by facsimile transmission to United States Patent and Trademark Office at facsimile number (703) 872-9306, on the date stated below.

12/10/2004
Date

LESLEY L. LAm
Name

Signature

17